

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 36
WEST VIRGINIA LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT NOTICE REQUIREMENTS

§114-36-1. General.

1.1. Scope. -- This rule applies to Member Insurers and their agents that provide insurance coverage for direct, nongroup life, health, annuity and supplemental policies or contracts, for certificates under direct group policies and contracts, and for unallocated annuity contracts to those persons specified in W. Va. Code §33-26A-3(a).

1.2. Authority. -- W. Va. Code §§33-26A-19(d); 33-2-10.

1.3. Filing Date. -- April 13, 1994

1.4. Effective Date. -- April 13, 1994

§114-36-2. Definitions.

As used in this legislative rule:

2.1. "Commissioner" means the Insurance Commissioner of the State of West Virginia.

2.2. "Disclaimer" means the disclaimer required to be placed on the face of the Summary Document pursuant to W. Va. Code §33-26A-19(c).

2.3. "Member Insurer" means any insurer licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under section three of this article, and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed or voluntarily withdrawn, and includes nonprofit service corporations as defined in article twenty-four of this chapter and health care corporations as defined in W. Va. Code §33-25-1 et seq.: Provided, That the term "member insurer" does not include a health maintenance organization, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company, any entity that operates on an assessment basis, an insurance exchange, or any other similar entity.

2.4. "Notice" means the two-sided single page document set forth in Appendix A of this rule entitled "NOTICE CONCERNING COVERAGE LIMITATIONS AND EXCLUSIONS UNDER THE WEST VIRGINIA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION." The Notice comprises the Summary Document,

Disclaimer and the non-coverage notice of partial or non-coverage required by W. Va. Code §33-26A-19(d).

2.5. "Policy or Contract" means the following types of policies or contracts issued by a Member Insurer to persons described in W. Va. Code §33-26A-3(a):

2.5.1. Direct nongroup life insurance, health insurance, annuities and supplemental policies or contracts;

2.5.2. Certificates under direct group life insurance policies, health insurance policies, or annuity contracts; or

2.5.3. Unallocated annuity contracts.

2.6. "Summary Document" means the document describing the general purposes, limitations and exclusions under the West Virginia Life and Health Insurance Guaranty Association Act, W. Va. Code §33-26A-1 et seq., as adopted by the West Virginia Life and Health Insurance Guaranty Association and approved by the Commissioner and required to be given to Policy or Contract Holders by Member Insurers or their agents pursuant to W. Va. Code §33-26A-19(b).

§114-36-3. Form and Content of Notice.

3.1. On or after January 1, 1994, no Member Insurer or its agent may deliver a Policy or Contract to a Policy or Contract Holder, unless the Notice as set forth is delivered to the Policy or Contract Holder prior to or at the time of delivery of the Policy or Contract.

3.2. The insurer or agent making the delivery of the Notice shall maintain a record of the delivery.

3.3. The Notice shall be printed on a separate sheet of paper. The Notice may not include the name and address of the Member Insurer issuing the Policy or Contract or the name and address of the agent who procured the Policy or Contract.

3.4. The Notice shall be identical to that prescribed by the Commissioner in Appendix A of this rule.

3.5. Delivery of the Notice as set forth in Appendix A of this rule shall satisfy the delivery of a separate written notice of partial or total non-coverage to Policy or Contract Holders of Policies or Contracts where any portion of the Policy or Contract is not guaranteed by the Member Insurer, or under which the risk is borne by the Policy or Contract Holder.

3.6. A form filing is not required for the Notice.

3.7. Member Insurers and their agents that provide the following types of excluded coverages or services excluded from coverage under the West Virginia Life and Health Insurance Guaranty Act are not required to provide the Notice required by this rule to the contract or policy holders receiving the excluded coverages or services:

3.7.1. Any policy or contract of reinsurance, unless assumption certificates have been issued;

3.7.2. Any plan or program of an employer, association or similar entity to provide life, health or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or similar entity under:

a. A multiple employer welfare arrangement as defined in section 514 of the Employee Retirement Income Security Act of 1974, as amended;

b. A minimum premium group insurance plan;

c. A stop-loss group insurance plan;

d. An administrative services only contract;

3.7.3. Any policy or contract issued in this state by a Member Insurer at a time when the member insurer was not licensed or did not have a certificate of authority to issue the policy or contract in West Virginia;

3.7.4. Any unallocated annuity contract issued to an employee benefit plan protected under the federal pension benefit guaranty corporation.

APPENDIX A attached